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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,494	12/22/1999	MARTHA K. NEWELL	10277/7007	6216

7590 02/03/2003

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600 ATLANTIC AVENUE  
BOSTON, MA 02210

EXAMINER

GAMBEL, PHILLIP

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 02/03/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.



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1644	16

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Please find below a communication from the EXAMINER in charge of this application  
Commissioner of Patents

Applicant's election of Group I in Paper No. 3 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant's election of the CD40 ligand as the CD40 binding agent and election of CD80 and CD86 as the co-stimulatory molecule. However, in contrast to applicant's assertions, CD80 and CD86 are not the same species of co-stimulatory molecule. The structures, expression and modes of action of CD80 and CD86 differ. Therefore, it is ambiguous as to whether applicant intends to select CD80, CD86 or the combination of CD80 and CD86. In addition, it is not clear that the specification as filed provides sufficient written support for the combination of CD80 and CD86. To avoid a new matter rejection if applicant intends to elects the combination of CD80 and CD86, applicant needs to point to a basis in the specification for the combination of CD80 and CD86 in the claimed methods. See MPEP 714.02 and 2163.06.

Therefore, applicant's election is not fully responsive to the prior Office Action because of the issues above. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

PHILLIP GAMBEL  
PHILLIP GAMBEL, PH.D  
PRIMARY EXAMINER  
TECH CENTER 1600

1/31/03